

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Section 3595(e) of the regulations in Title 3 of the California Code of Regulations pertaining to Cotton Pests Host-Free Districts.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before March 4, 2002.

INFORMATIVE DIGEST//POLICY STATEMENT OVERVIEW

Existing law provides that if the Secretary determines that a particular pest cannot be eradicated or effectively controlled by ordinary means, or that it is impracticable to eradicate or control such pest without destruction of host plants, he may declare a host-free period or district, or both; and, describe any host and the district in which the planting, growing, cultivation, or maintenance in any manner of any plant which is capable of continuing the particular pest is prohibited (Food and Agricultural Code, Section 5781). The Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code and are necessary to circumscribe and exterminate or prevent the spread of pests (Food and Agricultural Code, Sections 407 and 5322).

Existing regulations provide that portions of California are eradication areas for cotton boll weevil and pink bollworm, set forth the hosts of these pests, and set forth the means and methods which may be used in the eradication and control of these pests (California Code of Regulations, Title 3, Sections 3590 and 3591.9).

Existing Section 3595 established host-free districts and periods for the control of pink bollworm and cotton boll weevil; set planting, termination, and destruction dates for cotton; set required methods for termination and destruction of cotton; and established provisions for variances from the requirements of the regulation.

Existing Section 3595(e) established the method of destruction, requiring all cotton stalks and debris to be first be effectively shredded and then undergo tillage in a specified manner which mixes all plant residues with the surface soil.

The proposed amendment of Section 3595(e) will change the tillage requirements for District five (the Palo Verde Valley in Riverside and Imperial Counties and the Needles area in San Bernardino County) only;

provided, that greater than 80 percent of the cotton plant acreage is planted in 'Bt cotton' varieties and there is no evidence of resistance to the *Bacillus thuringensis* (Bt) endotoxin by pink bollworm. The Bt endotoxin resistance shall be tested in a manner approved by the Secretary. This proposed amendment would provide that, following the required shredding, the land on which any cotton plants were growing during the preceding season shall be tilled in such a manner that dislodges the cotton plant roots from the soil in such a manner which ensures that cotton plant regrowth will not occur (minimum tillage system).

The effect of the amendment is to provide cotton growers in District five with the option of using the minimum tillage system when certain biologically sound criteria are met as an alternative tillage method. This method should provide for an adequate host-free period for the prevention of over-wintering pink bollworm larvae in the cotton plant residue. The proposed action does not differ from any existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3595 does not impose a mandate on local agencies or school districts. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE INDIVIDUALS OR BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendment to the regulation would not: 1) create or eliminate jobs within California; 2) create new business or eliminate existing businesses within

California; or, 3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Section 3595(e) pursuant to the authority vested by Sections 407, 5322, 5552 and 5781 of the Food and Agricultural Code of California.

REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5322, 5552 and 5781-5784 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The adoption of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Kris Peebles at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in

underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final

statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

DEPARTMENT OF FOOD AND AGRICULTURE

Date

Undersecretary